

Bugging Admissions Taint Few

By Ronald J. Ostrow
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A survey of the 37 cases in which the Government has admitted bugging or wiretapping defendants shows the disclosures have caused no serious setback so far to the prosecution.

The Justice Department revealed in November, 1968, that it was studying hundreds of criminal convictions and pending prosecutions in order to advise the courts of those cases that might have been tainted by illegal eavesdropping. The Department was

promptly charged with being soft on crime.

However, the record to date fails to support the charge.

In 22 of the 37 cases, judges have ruled there was no eavesdropping taint or defendants, advised of the bugging, have not seen fit to raise the issue.

Could Be Reversed

Some of these, such as the tax evasion, larceny and conspiracy conviction of former Senate aide Robert G. (Bobby) Baker, could still be reversed on bugging or other grounds. But so far, the Government has prevailed. Baker, former Secretary to the Senate Majority, has appealed his conviction, claiming, in part, that the trial judge erred in ruling that FBI bugging had not contaminated his case.

Eleven of the 37 cases in which the Government admitted electronic eavesdrop-

ping are pending. In some, like the gambling-racketeering conviction of Pasquale Vincent Borgese, a New York gambler, the conviction was reversed, and the Government has not decided yet whether to prosecute again.

In other pending cases, such as the indictment of Louis LaHood Sarkis of Detroit for participating in a conspiracy to conceal an escaped murderer, the bugging disclosure was made before the trial. A hearing to determine if the bugging produced tainted evidence has not yet been held.

Four Cases Dismissed

Four cases have been dismissed. In only one of these was it clear that the Government felt it could not prosecute without evidence gleaned from electronic snooping. In two, both gambling cases, the Justice Department won't reveal why they were dropped.

Federal Cases

The other dismissal—theft charges against Charles J. O'Brien, a close associate of Teamsters Union President James R. Hoffa—was caused by the death of a key witness against O'Brien, the Government said.

Among the more intriguing of the bugging cases are those involving organized crime lords who were informed before their trials that Federal agents had illegally eavesdropped on them, but who failed to claim the bugging tainted their prosecution.

Raymond Patriarca, reputed head of the Mafia in New England, is one such figure. He and two co-defendants were convicted March 8 of conspiring to murder Willie Marfeo for operating a gambling place in Patriarca's Providence, R.I., territory.

Last October, before his trial began, the Government admitted the FBI had illegally

bugged Patriarca's place of business from 1962 to 1965. Yet Patriarca did not raise the issue. Presumably, he would rather go to prison than risk disclosure of the information gathered about him and his associates.

When the bugging issue is raised, information obtained by the eavesdropping usually goes into the public record.

Must Await Outcome

A final assessment of the Justice Department's bugging admissions must await both the outcome of the 11 pending cases and any future disclosures Federal authorities may make. The review of prosecutions and convictions is still under way.

Department officials won't reveal whether bugging caused them to drop cases they had planned to bring but had not made public when the disclosure policy went into effect.

But the biggest question of all was raised Jan. 29 by the Supreme Court when it ruled that the Justice Department cannot decide on its own whether Federal eavesdropping should be called to a court's attention.

Until then a Department committee reviewed cases in which there had been electronic eavesdropping and voluntarily disclosed those instances it believed were "arguably relevant" to a conviction.

But in an appeal of extortion convictions by Felix A. Alderisio, a Chicago rackets figure, and Willie Alderman, a Las Vegas gambler, the High Court ruled the Department could not make the decision on its own. Instead, it ordered a hearing in Denver Federal court to see if the Government used tainted information at their trial.

The Justice Department won't comment on the ruling, but it's believed that it may cause a series of new bugging disclosures to be made.